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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

11 PATRICK KEITH STEARNS,

12 Plaintiff,

13 v.
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DSHS et al.

15 Defendants.
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CASE NO. 3:11-cv-05422-BHS-JRC

ORDER DIRECTING SERVICE
OF CIVIL RIGHTS COMPLAINT

17 This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff has
18 been granted leave to proceed with this action in forma pauperis. Plaintiff has filed a two
19 page amended complaint naming defendants other than DSHS (ECF No. 7). Plaintiff has
20 also provided filled out service forms (ECF No. 9). The court will provide copies of the
21 complaint for service. The court, having reviewed Plaintiff's complaint, does hereby
22 **ORDER** as follows:
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1 (1) Service by Clerk

2 The Clerk is directed to send the following to the named defendants by first class
3 mail: a copy of plaintiff's civil rights complaint, a copy of this Order, two copies of the
4 Notice of Lawsuit and Request for Waiver of Service of Summons, a Waiver of Service
5 of Summons, and a return envelope, postage prepaid, addressed to the Clerk's Office.

6 (2) Response Required

7 Defendants shall have **thirty (30) days** within which to return the enclosed waiver
8 of service of summons. A defendant who timely returns a signed waiver shall have **sixty**
9 **(60) days** after the date designated on the notice of lawsuit to file and serve an answer to
10 the amended complaint or a motion permitted under Rule 12 of the Federal Rules of Civil
11 Procedure.
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13 A defendant who fails to timely return a signed waiver will be personally served
14 with a summons and complaint, and may be required to pay the full costs of such service,
15 pursuant to Rule 4(d)(2). A defendant who has been personally served shall file an
16 answer or motion permitted under Rule 12 within **thirty (30) days** after service.

17 (3) Filing and Service by Parties, Generally

18 All attorneys admitted to practice before this court are required to file documents
19 electronically via the court's CM/ECF system. Counsel is directed to the Court's
20 website, www.wawd.uscourts.gov, for a detailed description of the requirements for
21 filing via CM/ECF. All non-attorneys, such as *pro se* parties and/or prisoners, may
22 continue to file a paper original with the Clerk. All filings, whether filed electronically or
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1 in traditional paper format, must indicate in the upper right hand corner the name of the
2 Magistrate Judge to whom the document is directed.

3 For any party filing electronically, when the total of all pages of a filing exceeds
4 fifty (50) pages in length, a paper copy of the document (with tabs or other organizing
5 aids as necessary) shall be delivered to the Clerk's Office for chambers. The chambers
6 copy must be clearly marked with the words "Courtesy Copy of Electronic Filing for
7 Chambers."

8 Finally, any document filed with the court must be accompanied by proof that it
9 has been served upon all parties that have entered a notice of appearance in the
10 underlying matter.
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12 (4) Motions

13 Regarding the filing of motions before the court, the parties are directed to review
14 Local Rule CR 7 in its entirety. A few important points are highlighted below:

15 Any request for court action shall be set forth in a motion, properly filed and
16 served. Pursuant to amended Local Rule CR 7(b), any argument being offered in support
17 of a motion shall be submitted as a part of the motion itself and not in a separate
18 document. **The motion shall include in its caption (immediately below the title of the**
19 **motion) a designation of the date the motion is to be noted for consideration upon**
20 **the court's motion calendar.**

21 In all instances where one of the parties to a lawsuit is incarcerated, **all** categories
22 of non-dispositive motions not listed in Local Rule CR 7(d)(1) must be noted for the third
23 Friday after the date of filing and service. This applies to all non-dispositive motions,
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1 even those which are normally (if none of the parties are incarcerated) permitted to be
2 noted 7 judicial days after filing. *See* Local Rule CR 7(d)(2).

3 All dispositive motions shall be noted for consideration no earlier than the fourth
4 Friday following filing and service of the motion.

5 (5) Motions for Summary Judgment

6 If one of the parties files a motion for summary judgment pursuant to Federal
7 Rules of Civil Procedure 56, the opposing party should acquaint him/herself with Rule
8 56. Rule 56 requires a nonmoving party to submit affidavits or other evidence in
9 opposition to a motion for summary judgment if the moving party has shown the absence
10 of issues of material fact and an entitlement to judgment as a matter of law. A
11 nonmoving party may not rest upon the mere allegations or denials of prior pleadings.
12 Rather, successful opposition to a motion for summary judgment requires the nonmoving
13 party to set forth, through affidavits or other evidence, specific facts showing a genuine
14 issue for trial. Failure by the nonmoving party to oppose a summary judgment motion or
15 to present counter evidence could result in the court accepting the moving party's
16 evidence as the truth, and entering final judgment in favor of the moving party without a
17 full trial. Rand v. Rowland, 113 F.3d 1520 (9th Cir. 1997).

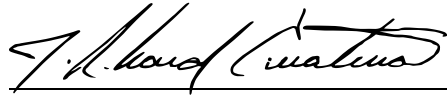
18 (6) Direct Communications with District Judge or Magistrate Judge

19 No direct communication is to take place with the District Judge or Magistrate
20 Judge with regard to this case. All relevant information and papers are to be directed to
21 the Clerk.
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1 (7) Clerk's Action

2 The Clerk is directed to send copies of this Order and of the General Order issued
3 by the Magistrate Judges to Plaintiff.

4 DATED this 3rd day of August, 2011

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7 J. Richard Creatura
8 United States Magistrate Judge
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